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+.\IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W. P. NO. 2066 OF 2002

PETITIONER

Surendra Nath Mishra S/o Shri Jagannath Mishra, aged about 54 years, presently working as Assistant Store Keeper, Akaltara Cement Factory of M/s Cement Corporation of India Limited, District Janjgir-Champa (C.G.)

VERSUS

RESPONDENTS

1. Cement Corporation of India Ltd., (A Govt of India Enterprises), its Registered and Head Office at Core V, Scope Complex, 7-Lodhi Road, New Delhi through its Chairman-cum-Managing Director, New Delhi.

2. The General Manager, Cement Corporation of India Ltd.,Akaltara Cement Factory, P.O.Akaltara District Janjgir-Champa (C.G)

P. R. No. 2139/02
Presented by Shri .....
dated 4.10.02

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN NATURE OF CERTIORARI, MANDAMUS PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS:

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2066 of 2002

Petitioner: Surendra Nath Mishra

Versus

Respondents: Cement Corporation of India Ltd. & another

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Miss Smita Ghai, Advocate for the petitioner.

Shri P. S. Koshy, Advocate for the Respondents.

ORDER

(Passed on this 16th day of January, 2007)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The petitioner has filed this petition seeking a direction to the respondents to promote the petitioner to the post of Senior Storekeeper and other higher posts up to the post of Joint Senior Manager with all consequential benefits and to release salary of the petitioner from March, 2002.

2. The indisputable facts, in nutshell, are that the petitioner by award dated 28.11.1981 (Annexure P/4) passed by the Labour Court, Bilaspur in Case No. 94/M.P.I.R./80 was classified as Assistant Store Keeper and the respondent was further directed to pay difference of wages to the petitioner. The classification on the post of Storekeeper was made effective from 7.1.1978.

3. Being aggrieved the respondent preferred a revision being Revision No. 580/M.P.I.R./81 and the petitioner also filed a revision being Revision No. 585/M.P.I.R./81, before the Industrial Court at Indore. The Member Judge after hearing both the parties by order common dated 18th April, 1984 (Annexure P/5), passed in both the revision petitions, quashed the order dated 22.11.1981 passed by the Labour Court as having no jurisdiction.

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4. Thereafter the petitioner filed a writ petition being M.P.No. 2037 of 1984 in the High Court of Madhya Pradesh at Jabalpur. A division Bench of the High Court of Madhya Pradesh at Jabalpur after having considered the case allowed the petition filed by the petitioner vide order dated 1.8.1991 (Annexure P/6) and quashed the order dated 18.4.1984 passed by the Industrial Court. Accordingly the order dated 22.11.1981 passed by the Labour Court was maintained.

5. The petitioner has thereafter filed a contempt petition M.C.C. No. 656 of 1993 complaining that the award has not been complied with in as much as the petitioner was not granted promotions, thereafter, and other consequential benefits. The High Court of Madhya Pradesh vide order dated 23.2.1994 dismissed the petition observing as under:-

> "Under the circumstances, the effect of this Court's order is to restore the order of the Labour Court. The benefits available to the petitioner are, therefore, the benefits granted to him by the Labour Court under its own order. In such a situation, it would be proper for the petitioner to approach the Labour Court to get its order executed in accordance with law."

6. Pursuant to the order dated 23.2.1994 (Annexure P/10) passed in M.C.C. No. 656/1993, the petitioner has filed an execution petition before the Labour Court which is pending consideration as stated in para 5.13 of the present writ petition.

7. In the present petition, the petitioner is seeking the same relief which the petitioner has sought for in the contempt petition, submitting that the consequential relief means the subsequent promotions which have not been granted by the respondents, as such the same amounts to the contempt of the order passed by the

High Court. In the pending execution petition, it is submitted by the petitioner that the petitioner is claiming all the reliefs including grant of promotions by way of consequential relief, as prayed for in this petition.

8. I have heard learned counsel for the parties and perused the records appended to the petition.

9. It is apparent on the basis of the submissions made by learned counsel for the parties, and on perusal of the documents appended to the petition that the petitioner is seeking promotion by way of consequential reliefs pursuant to the order dated 28.11.1981 (Annexure P/4) passed by the Labour Court. The petitioner has already filed execution proceedings before the same Court. What would be the consequential reliefs granted by the Labour Court, can be decided by the Labour Court itself and the same cannot be adjudicated upon in this petition. Thus, this writ petition is dismissed as not maintainable.

10. Learned counsel for the petitioner submits that the petitioner has not been paid salary. Per contra, learned counsel appearing for the respondents categorically submits that when the return was filed, the payment was not made, but, now, the entire payment/dues, including salary has been paid and nothing remains due. At the request of learned counsel for the petitioner, the liberty is reserved to the petitioner to file appropriate application before the Labour Court or any other competent authority for the relief, in accordance with law.

Sd/-
Satish K. Agnihotri
Judge

Thakur